

REMARKS/ARGUMENTS

Claims 22 – 24 and 26 – 38 were presented for consideration in the present application and claims 22 – 24 and 26 – 42 pending upon entry of this Amendment. Claims 39 – 42 are new. Applicants acknowledge with appreciation the indication that claims 22 – 24, 26 and 27 are allowed. By the present Amendment, Applicants have not amended any of allowed claims 22 – 24, 26 and 27. Accordingly, Applicants respectfully submit that claims 22 – 24, 26 and 27 should remain allowed. For at least the reasons set forth below, Applicants respectfully submit that claims 28 – 38 are patentable over the cited art.

Applicants respectfully request that the Examiner acknowledges and initials in the next correspondence the references submitted in the Supplemental Information Disclosure Statement submitted herewith. The Information Disclosure Statement includes the references properly cited in the Supplemental Information Disclosure Statement submitted July 29, 2008 for the Examiner's convenience. As previously provided in the Amendment dated August 1, 2008, Applicants respectfully submit that claims 22 – 24 and 26 – 38 are patentable over the references included in the Supplemental Information Disclosure Statement submitted July 29, 2008.

In particular, U.S. Patent No. 4,361,150 to Voss fails to disclose or suggest "wherein said first region intersects with said tapered main section at a first plane having a first outer dimension, said gripping region intersects with said first region and has a second outer dimension, said second region intersects with said gripping region and has a third outer dimension, said first outer dimension being larger than said second outer dimension and said third outer dimension being larger than said second outer dimension", as recited in claim 22, or "said first region intersects with said tapered main section at a second plane having a maximum outer dimension, said gripping region intersects with said first region and has a second outer dimension, said maximum outer dimension being larger than said second outer dimension", as recited in claim 28.

Claim 28 stands rejected under 35 U.S.C. §102(e) as being anticipated by United States Patent No. 6,890,324 to Jackson et al. (hereinafter "Jackson"). For at least the reasons set forth below, Applicants submit that claim 28 is not disclosed or suggested by Jackson.

Independent claim 28 provides a tapered main section adjacent an insertion tip and a finger grip adjacent the tapered main section and opposite the insertion tip. The insertion tip and the tapered main section intersect at a first plane. The first region intersects with the tapered main section at a second plane having a maximum outer dimension. The tapered main section has a taper that decreases from the second plane to the first plane.

On page 7, paragraph 29 of the present application, it is provided, "insertion tip 20 and main section 22 intersect at a first plane 36, while the main section and finger grip 24 intersect at a second plane 38." Thus, the main section is from first plane 36 to second plane 38, as shown clearly in Fig. 4. The specification also provides that main section 22 has a "main section taper, which is defined as a ratio of dimension 50 at second plane 38 divided by dimension 42 at first plane 36." See page 8, paragraph 36.

Further, on page 6, paragraph 26 of the present application, the specification provides that "[b]arrel 14 is sub-divided into three sections, namely an insertion tip 20, a main section 22, and a finger grip 24." In fact, the specification even distinguishes the tapered outer dimension of the main section of the barrel (see page 8, paragraph 36) from the tapered outer dimension of the insertion tip (see page 7, paragraph 32). Clearly, the insertion tip 20, and its taper, is from its free end to first plane 36. The specification further provides that the outer dimension of main section 22 is tapered (e.g., decreases along length 48), linearly or non-linearly, from a maximum outer dimension 50 at second plane 38 to a minimum outer dimension 42 at first plane 36. See page 8, paragraph 35.

In contrast to the tapered main section of claim 28 having a taper that decreases from the second plane to the first plane, Jackson discloses a barrel having a uniform

outer dimension across the entire length of the main section of the barrel. The specification of Jackson explicitly provides that the barrel has a central body that is tubular. See col. 3, lines 31 – 32. The specification of Jackson further provides that the plunger-receiving end of the barrel has a decreased or tapered width or diameter relative to the central body of the barrel that serves as a transition between the body and the rearmost plunger end. See col. 3, 43 – 46. The specification of Jackson yet further provides that two substantially flattened surfaces are generally decreasingly tapered from the angled shoulders of the finger grip area to the plunger edge. See col. 4, lines 40 – 43.

The only features of Jackson that have any resemblance of a taper, as provided in claim 28, are the insertion tip and the portion of the finger grip area and plunger edge. Thus, Jackson clearly fails to disclose or suggest a tapered main section that has a taper that decreases from the second plane to the first plane, as recited in claim 28.

In addition, claim 28 recites that the first region curves away from the tapered main section at the second plane to the gripping region.

As discussed above, Jackson provides that the plunger-receiving end of the barrel has a decreased or tapered width or diameter relative to the central body of the barrel that serves as a transition between the body and the rearmost plunger end. See col. 3, 43 – 46. Thus, Jackson fails to disclose or suggest that the first region curves away from the tapered main section at the second plane to the gripping region, as recited by claim 28.

Accordingly, for at least the aforementioned reasons, independent claim 28 is in condition for allowance. Applicants respectfully request reconsideration and withdrawal of the rejection of claim 28.

Claims 29 – 38 stand rejected under 35 U.S.C. §103(a) as being unpatentable over United States Patent No. 6,890,324 to Jackson et al. (hereinafter “Jackson”).

Jackson is assigned to Playtex Products, Inc. that is the assignee of the present application, and at the time the claimed invention was made, both were owned by the same person or subject to an obligation of assignment to the same person. The application includes at least one inventor not named as an inventor in Jackson. Further, Jackson qualifies as prior art only under 102(e). Thus, Applicants respectfully submit Jackson shall not preclude patentability under 35 U.S.C. §103(c).

In addition, since independent claim 28 is believed to be in condition for allowance and claims 29 – 38 depend therefrom, Applicants respectfully submit that claims 29 – 38 are also believed to be in condition for allowance.

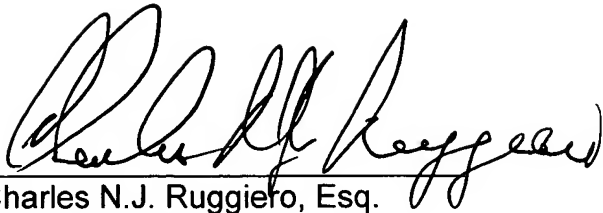
Applicants respectfully request reconsideration and withdrawal of the rejection of claims 29 – 32.

New claim dependent claim 39 recites that “said gripping region has a length, and wherein said gripping region has an outer dimension that is substantially smaller than an outer dimension of said first region and an outer dimension of said second region at least at one plane along said length of said gripping region.” New dependent claim 40 recites that “said maximum dimension is a maximum dimension of the barrel.” New dependent claim 41 recites that “said second region intersects said gripping region at a plane and terminates at an end of the barrel, and wherein said second region has a maximum outer dimension at said end.” New dependent claim 42 recites that “the barrel is formed by a two-part molding operation.” Applicants respectfully submit that new claims 39 through 42 depend from claim 28, and are patentable over the cited art for at least the reasons described above for claim 28.

In view of the above, it is respectfully submitted that the present application is in condition for allowance. Such action is solicited.

If for any reason the Examiner feels that consultation with Applicants’ attorney would be helpful in the advancement of the prosecution, the Examiner is invited to call the telephone number below.

September 30, 2008

A handwritten signature in black ink, appearing to read "Charles N.J. Ruggiero", written over a horizontal line.

Charles N.J. Ruggiero, Esq.
Registration No. 28,468
Attorney for Applicants
Ohlandt, Greeley, Ruggiero & Perle, L.L.P.
One Landmark Square
Stamford, CT 06901-2682
Tel: (203) 327-4500
Fax: (203) 327-6401